

REMARKS

Claims 1-19 are pending in above-identified patent application. Claims 7, 10 and 15 have been withdrawn from consideration, Claims 1-3, 5, 16 and 18 have been amended and new Claims 20-21 have been submitted for consideration by the Examiner. Applicants understand that upon allowance of a generic claim Applicants will be entitled to consideration of the withdrawn claims. Applicants respectfully request reconsideration and allowance of the instant application.

With respect to the objection to the drawings, specification and rejection of Claim 9 under 35 U.S.C. 112, Applicants respectfully submit that the above amendment to Page 8 of the specification overcomes these objections/rejections. Figures 3 and 4 illustrate slot 31 that receives two switches labeled as 30. Figure 4 also illustrates slots 41, 42 and 43 that receive pins 40, 44 and 45. Applicant also respectfully submits that the scope of Claim 9 is sufficiently supported by the amended specification (including the originally filed claims).

The rejection of Claims 2, 16 and 19 under 35 U.S.C. 102(e) as being anticipated by Bortolon (U.S.P.N. 6,364,047 B1), is respectfully traversed. Applicants reserve the right to challenge Bortolon as being prior art to the claimed invention.

Bortolon discloses an adjustable pedal assembly wherein the adjustment mechanism is located between the top-sliding and a bottom-stationary plate. Bortolon lacks any disclosure of switches for controlling the travel or adjustment of the top-sliding plate. For this reason, Bortolon cannot anticipate each and every aspect of the claimed invention and accordingly, Applicants respectfully request withdrawal of this rejection.

The rejection of Claims 1, 3, 4, 6, 8 and 11-14 under 35 U.S.C. 103(a) as being unpatentable over Bortolon (U.S.P.N. 6,364,047 B1), is respectfully traversed. Applicants reserve the right to challenge Bortolon as being prior art to the claimed invention.

Bortolon discloses an adjustable pedal assembly wherein the adjustment mechanism is located between the top-sliding and a bottom-stationary plate. As recognized by the Office Action, Bortolon lacks any disclosure teaching or suggesting any means for changing position that is located above or upon the sliding plate. The Action proposes that, based upon *In re Japikse*, 86 USPQ 70, it would be obvious to modify the structure of Bortolon such that the adjustment mechanism is located above the sliding plate. It is noted that no portion of Bortolon supports this modification. Indeed, Bortolon clearly teaches that the drive mechanism:

"...is disposed on the bottom side 24 of the carrier 18 between the parallel tracks 20 and 22"(Col. 2, Lines 25-30 of Bortolon-emphasis added).

The proposed modification in the Action would place the drive mechanism between the pedals that in turn would interfere with usage of these pedals (and also require movement of the tracks 20 and 22 to the surface which renders these tracks inoperative and further interfere with operation of the pedals). That is, the proposed modification also requires relocation of the tracks so that, in keeping with the requirements of Bortolon, the drive mechanism is located between the tracks. Applicants respectfully submit that a skilled person in this art would not consider such a modification obvious since such is not supported by Bortolon's disclosure and the modification interferes with operation of Bortolon's assembly. Applicants also respectfully submit that it is improper to discount claim limitations as being obvious when the applied reference fails to support the proposed modification to the disclosed structure. For these reasons, Applicants respectfully request withdrawal of this rejection.

The rejection of Claim 5 under 35 U.S.C. 103(a) as being unpatentable over Bortolon (U.S.P.N. 6,364,047) in view of Asano et al. (U.S.P.N. 5,086,663), is respectfully traversed.

Bortolon has the previously described deficiencies. The disclosure of Asano et al. fail to remedy these deficiencies. The pedal system of Asano is structurally and functionally different than Bortolon's. For example, Asano's system is designed for an arcuate movement of the pedals whereas Bortolon employs a linear pedal adjustment (e.g. compare Fig 1 of Asano to Fig 3 of Bortolon). For these reasons a skilled person in this art would lack the requisite motivation to combine these diverse structures. Accordingly, Bortolon and Asano cannot be properly combined in order to establish a prima facie case of obviousness.

The rejection of Claims 16, 17 and 19 under 35 U.S.C. 103(a) as being unpatentable over Liston (U.S.P.N. 4,499,963), is respectfully traversed.

Liston discloses an adjustment means for operator control wherein an adjustable plate (28) is suspended below a stationary plate (30). Liston fails to disclose an upper plate that is slideable relative to a lower stationary plate. As discussed above in connection with Bortolon, altering or modifying the structure of Liston is inconsistent with his disclosure and results in a structure that is at best undesirable and at worst inoperative. Further, in the absence of Applicants' disclosure there would be no motivation to conduct the proposed modification of Liston's structure. Therefore, the disclosure of Liston cannot establish a prima

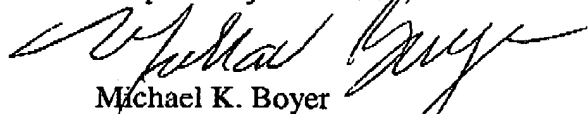
facie case of obviousness against the claimed invention and, accordingly, Applicants respectfully request withdrawal of this rejection.

The rejection of Claim 18 under 35 U.S.C. 103(a) as being unpatentable over Liston (U.S.P.N. 4,499,963) in view of Asano et al. (U.S.P.N. 5,086,663), is respectfully traversed.

Liston and Asano each contain the aforementioned deficiencies. Moreover, the pedal system of Asano is structurally and functionally different than Liston's. For example, Asano's system is designed for an arcuate movement of the pedals whereas Liston employs a linear pedal adjustment (e.g. compare Fig 1 of Asano to Fig 2 of Liston). For these reasons a skilled person in this art would lack the requisite motivation to combine these diverse structures. Accordingly, Liston and Asano cannot be properly combined in order to establish a prima facie case of obviousness.

Please find attached hereto a Petition for a Three-Month Extension of Time and an RCE Transmittal. Should there be any other fee due with this Response or otherwise due in connection with this Application, please also charge the same to Deposit Account No. 15-0680. Should the Examiner deem that any further action on the part of Applicant would advance prosecution, the Examiner is invited to telephone Applicants' attorney.

Respectfully Submitted,



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Encl.: RCE Transmittal
Petition for a Three Month Extension of Time